

#### Members

Sen. Beverly Gard, Chairperson  
Sen. Kent Adams  
Sen. Vi Simpson  
Sen. Glenn Howard  
Rep. Mark Kruzan  
Rep. Richard Mangus  
Rep. Dale Sturtz  
Rep. David Wolkins  
David Benshoof  
Michael Carnahan  
Randy Edgemon  
Hon. Jack Fowler  
Marvin Gobles  
Hon. William Goffinet  
Max Goodwin  
Lori Kaplan  
Regina Mahoney  
Kerry Michael Manders  
David Rector  
Gary Reding  
Alice Schloss  
Arthur Smith, Jr.  
Hon. Jim Trobaugh  
Lynn Waters



## ENVIRONMENTAL QUALITY SERVICE COUNCIL

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Authority: P.L. 248-1996 (SEA 138)

### MEETING MINUTES<sup>1</sup>

**Meeting Date:** January 14, 2000  
**Meeting Time:** 10:00 A.M.  
**Meeting Place:** State Library Auditorium, Indiana  
State Library, 140 N. Senate Ave.  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 7

**Members Present:** Sen. Beverly Gard, Chair; Sen. Vi Simpson; Rep. Dale Sturtz; Rep. Mark Kruzan; David Benshoof; Randy Edgemon; Marvin Gobles; Max Goodwin; Lori Kaplan; Regina Mahoney; Kerry Michael Manders; Gary Reding; Arthur Smith, Jr.; Hon. Jim Trobaugh.

**Members Absent:** Sen. Kent Adams; Sen. Glenn Howard; Rep. Richard Mangus; Rep. David Wolkins; Michael Carnahan; Hon. Jack Fowler; Hon. William Goffinet; David Rector; Alice Schloss; Lynn Waters.

The Chair of the Environmental Quality Service Council (EQSC), Senator Beverly Gard, called the meeting to order. She explained that the purpose of the meeting was to review the circumstances of the fish kill in the White River that began in December, 1999, and to determine whether the EQSC might make recommendations with respect to any aspects of law or procedure to address the problem.

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Senator Gard introduced Lori Kaplan, Commissioner of the Indiana Department of Environmental Management (IDEM), to present an overview of the circumstances surrounding the fish kill and IDEM's response. Commissioner Kaplan reported that IDEM is investigating the fish kill, focusing on what happened that resulted in contamination of the river and why. Noting that she could not comment to the extent that information gleaned was part of a pending investigation of a possible violation, Commissioner Kaplan summarized the events relating to the fish kill, communications with local health departments, the Indiana Department of Health (IDH), and the Indiana Department of Natural Resources (IDNR), and notices to the Indianapolis Water Company. She stated that public meetings on the fish kill were held in Madison, Hamilton, Marion, and Morgan Counties, and that IDEM had made a presentation to the Indianapolis City County Council on the subject. Commissioner Kaplan made available at the meeting maps of the affected areas detailing certain information from the IDEM investigation. She also had Tim Method, Deputy Commissioner, present a series of slides that addressed issues under investigation, involvement of the Anderson Wastewater Treatment Plant, damage to the river and the ecosystem, potential health effects, and potential violations. Mr. Method provided written handouts of the slide presentation (Exhibit 1). Also provided by IDEM were a timeline of the fish kill (Exhibit 2) and fact sheets from the fish kill for relevant dates (Exhibit 3). (Tom Neltner of Improving Kids' Environment also distributed a timeline that he prepared. (Exhibit 4))

Lt. Steve Hunter, IDNR Law Enforcement Division Supervisor for the Anderson area, then addressed his department's involvement with the fish kill. He described when dead fish were first noticed, and the observations and communications that then took place. Lt. Hunter summarized the locations where observations were made, the breadth of the affected area, and the numbers of dead fish observed.

Bill James, IDNR Chief of Fisheries, then presented his evaluation of the damage to fisheries, and the department's plans for restoration of the river. He noted the results from several points along the river of surveys of the effects on fish. He observed that no birds or mammals were affected, and that the fish kill did not extend into tributaries of the river. He stated that once continuing surveys show that the contamination is no longer present, the department will stock fish to speed and direct the repopulation of the river. The department's responsibilities with respect to the fish kill have stretched its resources and personnel to the extent that it has changed its priorities and has deferred some projects originally scheduled for 2000. Mr. James and Mr. Method spoke about the procedures for communication in the event of a fish kill between IDNR and IDEM. Mr. Method also responded to questions concerning notification by the Anderson Wastewater Treatment Plant to IDEM of the upset condition observed in mid-December. Matt Rueff, Assistant Commissioner, IDEM Office of Water Management, noted that the White River is heavily stressed due to bacteria from combined sewer overflows and storm water runoff.

Senator Gard inquired about the permitting of the Anderson Wastewater Treatment Plant. Mr. Method stated that IDEM regulates discharges by the plant into the river, and that the U.S. Environmental Protection Agency oversees the plant's pretreatment program. Felicia Robinson, Assistant commissioner, IDEM Office of Enforcement, explained that there is an extensive review of records at pretreatment facilities. Mr. Method stated that whether the terms of the plant's permit were violated is under investigation. Mr. Method also outlined potential penalties applicable in the event of a spill of contaminants that result in a fish kill, and potential criminal liability enforceable by a county prosecutor or federal authorities.

Senator Gard noted that many people with wells along the part of the river affected by the contamination are concerned about possible contamination of well water. Pete Maniago, Assistant commissioner of Operational Services of IDH, responded that the results of tests by the department of one hundred thirty-three wells were negative. The Marion County Health Department has offered to test any well upon request without charge. He also

noted that tests of river water soon after the contamination event was first recognized showed elevated levels of carbon disulfide, but that there are no known effects of carbon disulfide on humans. Pat Carroll, Branch Chief, Drinking water Branch, IDEM Office of Water Management, indicated that IDEM employed a geologist to review the probability that the contamination would affect groundwater.

Mario Sgro, IDH, provided an overview of studies pertaining to the effects of contaminants on animals and humans.

Barry McNulty of the Hamilton County Health Department recounted the chronology of his involvement with the fish kill, including his first observation of dead fish and his notice to IDEM. He stated that he did not know the nature of the event until hearing a news report, and that the Madison County Health Department was aware of the nature of the event at least one week before he was. He noted that he was never advised of the event by the Anderson Wastewater Treatment Plant.

Brant Cowser, President of Friends of the White River, recounted his involvement with the fish kill, including his providing notice of dead fish to state agencies, and expressed his concern about whether adequate communication took place among state and local agencies and affected parties.

Richard M. Van Frank of the Audubon Society provided a written statement (Exhibit 5) concerning the Anderson Wastewater Treatment Plant pretreatment program, the adequacy of available private lab facilities for water testing, the means of differentiating normal seasonal die-offs from fish kills caused by contamination, the need for a coordinated response among state and county agencies, and the need for an unbiased study of agency response procedures.

Bill Beranek, President of the Indiana Environmental Institute and Chair of the Marion County Local Emergency Planning Commission, noted the difficulty of identifying a chemical that kills fish in a river when the chemical might no longer be present at the time of testing. He also addressed the history of procedures for communications among agencies in the event of a fish kill or similar event, and outlined the particular needs associated with the emergency response function, the enforcement function, technical assistance for recovery, the expert response coordination function, and the public communications function. He suggested that the current procedures of IDEM and IDNR for emergency response need to be reviewed to ensure coverage of all state responsibilities in a multijurisdictional environmental threat.

Dr. Dennis Clark, a biologist with IDEM, stated that no carbon disulfide is currently being detected in the river, and that none was ever detected south of Indianapolis. He also stated that no toxicity was found in sludge from the Anderson Wastewater Treatment Plant after foaming was noticed at the plant in early January, 2000.

John Shettle, Orestes Town Board President and member of the Upper White River Watershed Alliance Inc., stressed the need for rapid communications procedures in emergency events such as the fish kill.

Rae Schnapp, Water Policy Director of the Hoosier Environmental Council, expressed her concerns that the emergency response was slow, the best opportunity for identification of the contaminating agent or agents was lost, and inadequate notice was given to the general population. She also expressed concerns that the environmental rule making procedure is dominated by regulated interests, and that IDEM is reluctant to use its authority to penalize polluters.

Glenn Pratt expressed his concern that the importance of emergency response within

IDEM has been diminished by pushing responsibility down to a lower organizational level. He suggested that IDEM should modify all permits by rule to require reporting of upsets immediately when they occur. He stressed that a finding of criminal liability is possible. He further recommended that personnel in IDEM positions dealing with scientific matters should have scientific backgrounds, and that the overall IDEM staffing situation should be reviewed.

Pete Drum stressed the importance of the answer to the basic question of what killed the fish, and urged that not too much effort should be directed at preselected targets.

Commissioner Kaplan commented that, in retrospect, IDEM might have brought more people into the emergency response sooner than it did. She indicated that IDEM will evaluate all of the comments from this meeting and others, will coordinate with other agencies, and will seek to establish a more flexible protocol to address emergency events of this nature.

Senator Gard suggested that IDEM look further at its resources and staffing levels, and emphasized that the intent of the EQSC is to do what it can to help IDEM in its efforts to improve response procedures and capabilities. Senator Gard stated that she intends to appoint a subcommittee of the EQSC to generate recommendations to IDEM and the General Assembly.

Max Goodwin commented on the role of the subcommittee, and on his belief that new statutes are not needed to address the emergency response situation. He indicated that the focus should be placed on achieving fishable and swimmable waters. He also expressed his belief that the Governor needs to take a lead role in response to the fish kill.

No date was set for the next meeting of the EQSC. The meeting was adjourned.

(These minutes were prepared by Bob Bond.)